

REMARKS

This is a full and timely response to the final Office Action mailed September 26, 2006. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

Present Status of Patent Application

Claims 1-18 remain pending in the present application. Of these claims, claims 2-8, 10-13, and 15-18 are original, unamended claims and claims 1, 9, and 14 have been previously presented. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

A. Allowable Subject Matter

Applicant wishes to place on record his gratitude towards Examiner for Examiner's indication that claims 2, 3, 10, 11, 17 and 18 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

However, Applicant has opted not to amend claims 2, 3, 10, 11, 17 and 18 at this time because it is respectfully asserted that the independent claims from which these claims depend are allowable, thereby making the dependent claims allowable as well in their current form.

Provided below, are reasons for Applicant's assertion of allowability of the pending claims.

B. Claim Rejections under 35 U.S.C. §102(e)

Statement of the Rejection

Claims 1, 4-9 and 12-16 are rejected under 35 U.S.C. §102(e) as being anticipated by Junod et al. (2002/0126094), previously cited.

Response to the Rejection

A proper rejection under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. Furthermore, anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference.

Applicant respectfully submits that the cited prior art of Junod does not disclose each element of Applicant's claims 1, 4-9 and 12-16 and, therefore, the current rejection of these

claims under 35 U.S.C. §102 is improper. Remarks substantiating Applicant's assertion are provided below.

Claim 1

In rejecting Applicant's claim 1, the Office action refers to Junod's figures 6 and 7 and asserts on page 9 (in pertinent part): "... wherein user proximity causes a change in reactance "capacitance" of said first circuit, (said change which inherently indicates a change in resonant frequency of said first circuit..." This statement is followed on page 10 (in pertinent part) by: "wherein said change in said operating characteristic is detected based on said change in resonant frequency of said first circuit." Applicant respectfully traverses this Office action assertion as being an improper interpretation of Junod, and more specifically of Junod's figures 6 and 7.

Junod's figure 6 is a circuit diagram of a capacitive (hand) detection circuit, while figure 7 is a block diagram illustrating capacitive plates used for both antenna and hand detection functions. While the antenna function of fig. 7 (RF circuit 128) does indeed use a human hand in conjunction with two electrodes configured as a capacitive antenna (thereby supporting, *in arguendo*, the Office action assertion of a change in resonant frequency), the hand detect circuit 126 (which, presumably, may be embodied by Junod's circuit of figure 6, though not labeled "126") does not detect a change in resonant frequency in RF circuit 128. This latter assertion is substantiated by Junod's figure 7, which does not show any interconnecting link between RF circuit 128 and hand detect circuit 126, nor by Junod's specification, which also fails to disclose such a link. The Office action assumes that such a link exists. Unfortunately, this assumption is not supported by Junod, nor by any reasonable inference that one of ordinary skill in the art would draw from the disclosure. Applicant's statement is further supported by the fact that even assuming *in arguendo*, that hand detect circuit of figure 6 is contained in the hand detect block 126 of figure 7, Junod's hand detect circuit of figure 6:

- a) does not show an antenna
- b) does not show a connecting link to an undisclosed antenna external to the circuit; and
- c) unambiguously states that detection is based on measuring "the amount of time to either charge up or discharge the capacitance" (Junod paragraph [0041] and FIGs. 3A and 3B) (rather than on detecting a change in resonant frequency as alleged in the Office action).

It may be further relevant to point out that Junod discloses in his paragraph [0045]:

When the device enters a sleep mode, such as described above, the switch disconnects the external capacitor 132 and RF circuit 128, and connects to a hand

detect circuit 126. Again, in an alternate embodiment, hand detect circuit 126 can be permanently attached to the electrodes. The removal of capacitor 132 provides the sensitivity to the hand to enable the hand detect circuit 126 to function. The present invention thus uses the same electrodes for both the antenna and hand detect function. This provides a low-cost hand detection with a high efficiency capacitive antenna for a cordless device.

(Emphasis added)

It can be appreciated from Junod's description above, that hand detect circuit 126 can operate independent of RF circuit 128 (switch disconnects RF circuit 128) and consequently does not utilize the detection of "a change in resonant frequency" as alleged in the Office action.

In summary, for at least the reasons cited above, Applicant respectfully asserts that the cited prior art of Junod does not anticipate Applicant's claim 1 as improperly alleged in the Office action and consequently, the rejection fails to satisfy the requirements for a proper rejection under 35 U.S.C. §102(e). Applicant respectfully requests withdrawal of the rejection followed by allowance of claim 1.

Claims 4-8

Because independent claim 1 is allowable, claims 4-8 that each depend directly on claim 1 are also allowable as a matter of law. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Consequently, Applicant respectfully requests allowance of claims 4-8 in their present form.

Claim 9

The remarks presented above with reference to the rejection of claim 1 are equally pertinent to the rejection of claim 9. However, in the interests of brevity, Applicant will refrain from repeating them herein. Suffice to state that the cited prior art of Junod does not at least anticipate that part of Applicant's claim 9 which states: "a circuit coupled to said antenna, said circuit operable to detect capacitive loading of said antenna based on said change in resonant frequency of a circuit comprising an antenna" (Emphasis added).

For at least the reason cited above, Applicant hereby asserts that the rejection of claim 9 under 35 U.S.C. §102(e) is improper and respectfully requests withdrawal of the rejection followed by allowance of claim 9.

Claims 10-13

Because independent claim 9 is allowable, claims 10-13 that each depend directly on claim 9 are also allowable as a matter of law. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Consequently, Applicant respectfully requests allowance of claims 10-13 in their present form.

Claim 14

Again, in the interests of brevity, Applicant will refrain from repeating them herein the remarks presented above with reference to the rejection of claim 1, which are equally pertinent to the rejection of claim 14. Suffice to state that the cited prior art of Junod does not at least anticipate that part of Applicant's claim 14 which states: "a first circuit coupled to said antenna, said first circuit operable to detect said change in resonant frequency of a second circuit comprising said antenna..." (Emphasis added).

For at least the reason cited above, Applicant hereby asserts that the rejection of claim 14 under 35 U.S.C. §102(e) is improper and respectfully requests withdrawal of the rejection followed by allowance of claim 14.

Claims 15-18

Because independent claim 14 is allowable, claims 15-18 that each depend directly on claim 14 are also allowable as a matter of law. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Consequently, Applicant respectfully requests allowance of claims 15-18 in their present form.

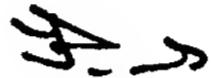
Prior Art Made of Record

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

In light of the reasons set forth above, Applicant respectfully submits that pending claims 1-18 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned representative at (404) 610-5689.

Respectfully submitted,


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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA, 22313-1450, on 26 October 2006.


Signature _____
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